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OFFICE OF PETITIONS

In re Application of :
Lars Persson : DECISION ON PETITION
Application No. 09/380,080 : TO WITHDRAW HOLDING
Filed: 22 March, 2006 : OF ABANDONMENT
Atty Docket No. 10438-0001-PCT :

This is a decision on the petition to withdraw the holding of abandonment filed on 22 March, 2006.

This application was held abandoned for failure to respond to the Office action in accordance with *Ex parte Quayle*¹ mailed on 13 February, 2001. A Notice of Abandonment was mailed 23 October, 2001. The petition filed on 27 March, 2002 (postcard date 31 October, 2001), was dismissed on 20 January, 2006. The present renewed petition was filed on 22 March, 2006.²

Petitioner asserts that a proper reply was timely filed. In support of the petition, petitioner submits a copy of a postcard receipt date-stamped by the USPTO with a date of 13 April, 2001, acknowledging receipt of, *inter alia*, an amendment and letter requesting approval of drawing changes. The postcard identifies the application by applicant's name, filing date, attorney docket number, and invention title.³ A copy of the amendment and drawing sheet is included with this petition.

The original correspondence filed was not matched with the file at the time the Notice of Abandonment was mailed and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being

¹ 1935 C.D. 11; 453 O.G. 213

² Although the present renewed petition is untimely by two (2) days, under the circumstances of this case the petition will be accepted as if timely filed.

³ It is noted that the application number is miscaptioned as "09/08,080" on the postcard. Nevertheless, the identifying data on the postcard is considered complete as to clearly identify the item for which a receipt is requested in accordance with MPEP 503.

filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Office but was not matched with the application file.

For the reasons stated above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is GRANTED.

The application is being forwarded to the Technology Center for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
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Office of Petitions